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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,782	02/08/2002	James D. Webb	P-8712.02	2705

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS, MN 55432-5604

EXAMINER	
MALLARI, PATRICIA C	
ART UNIT	**PAPER NUMBER**
3736	

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/072,782	WEBB ET AL.	
	Examiner	Art Unit	
	Patricia C. Mallari	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 August 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *08 February 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 7, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable under US Patent No. 5,752,976 to Duffin et al. in view of US Patent No. 6,168,563 to Brown. Duffin teaches a system comprising a monitor 20' at a second location operating to receive at least one request from a medical network 50 to modify the behavior or an implantable medical device 12, 14 and to transmit the at least one request to the implantable medical device 12, 14 at a second selected time (col. 13, lines 63-67 of Duffin). A bi-directional communications system communicatively couples the network 50 and the monitor 20' (col. 13, lines 55-67 of Duffin). "Re-programming" a device is considered to be programming at least one request to modify the behavior of the device. Duffin is silent as to the composition of the medical network.

However, Brown teaches a medical network comprising a server 54 and a programmer 62, wherein the server 54 operates to receive and store information for transmission to a third device 10, the information being received from a programmer 62 at a first location and created by a medical professional 60 via the programmer 62 at a first time (col. 16, lines 55-58; col. 17, lines 10-15; col. 18, lines1-46 of Brown). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use the medical network of Brown as that in Duffin, since Duffin teaches a

system wherein information is acquired from a medical network, and Brown describes such a medical network for supplying information.

Regarding claims 2 and 16-18, the server 54 further verifies that the clinician is authorized to submit the information to the device (col. 16, lines20-23 of Brown).

Regarding claim 7, the stored information (in the server) may be retrieved at a second time substantially later than the first time at which the information is created (col. 18, lines 40-46 of Brown).

Regarding claims 16-18, Duffin teaches a method wherein at least one request to modify the operation of an implantable medical device is programmed at a first time, transmitted to a second location, and transmitted form the second location to an implantable medical device (col. 13, lines 63-67 of Duffin). Duffin fails to describe the network at which the request is originally programmed. However, Brown teaches a system in which information for transmission to at least a third device/location 10 is stored at a first location 102, and transmitted to a second location remote from a programmer 104 used for programming the information (col. 16, lines 55-58; col. 17, lines 10-15; col. 18, lines1-46 of Brown). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use the medical network of Brown as that in Duffin, since Duffin teaches a system wherein information is acquired from a medical network, and Brown describes such a medical network.

With further regard to claims 17 and 18, the server 54 further verifies that the clinician is authorized to submit the information to the device (col. 16, lines 20-23 of Brown). With further regard to claim 18, the implantable medical device is selected from

among a plurality of implantable medical devices to which the clinician is authorized to submit information, wherein by selecting a particular patient from a plurality of patients (col. 16, lines 24-25 of Brown), each patient having at least one implantable medical device (col. 13, line 35-col. 14, line 31 of Duffin), the clinician selects a particular implantable medical device from among a plurality of implantable medical devices.

Claims 3-6, 8-10, 13-15, 19, 22-27, and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duffin in view of Brown, as applied to claims 1, 2, 7, and 16-18 above, and further in view of US Patent No. 6,249,705 to Snell. Duffin, as modified, lacks providing a secure link between the server and monitor of the system. However, Snell teaches a system in which security and data integrity checks are implemented, such as by encryption and handshaking, to ensure the validity of data exchanged (col. 7, lines 41-54 of Snell). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the system of Snell with that of Duffin, as modified by Brown, in order to maintain data integrity, to maintain appropriate safety levels for patients being treated, to maintain appropriate configuration controls, and to maintain appropriate protection of patient data confidentiality.

Regarding claims 4, 8-10, 24, and 30-32, if data exchanged between the server 102 and the monitor 104 is encrypted, the monitor 104 must inherently decrypt received information in order to be able to use it (col. 7, lines 40-54 of Snell). With further regard to claims 8-10 and 30-32, the monitor transmits the request to a plurality of implantable medical devices 12, 14 (col. 13, lines 63-67 of Duffin). With further regard to claims 9, 10, and 30-32, the server allows the clinician to submit request to at least one

implantable medical device (col. 13, lines 63-67 and col. 14, lines 18-30 of Duffin; fig. 2 and col. 16, lines 55-57 of Brown). With further regard to claims 10 and 30-32, the server verifies that the clinician is authorized to submit requests to the implantable medical device (col. 16, lines 20-23 of Brown).

Regarding claims 5, 6, 13, and 14, the monitor transmits the request(s) to the implantable medical devices using a radio frequency transmitter and the implantable medical devices receive the request(s) using a radio frequency receiver (col. 7, lines 14-30; col. 8, lines 13-18; col. 13, lines 35-40 and lines 55-67 of Duffin).

Regarding claims 15, 25, and 30-32, the stored information (in the server) may be retrieved at a second time substantially later than the first time at which the information is created (col. 18, lines 40-46 of Brown).

Regarding claims 26 and 27, handshaking involves notification that a device is ready to send or receive information.

Regarding claim 31, the bi-directional communications network comprises at least one of a telephone line, an intranet, Internet, satellite, and global positioning system (lines 26-30 of the abstract, and col. 10, line 15-col. 12, line 41 of Duffin).

Claims 11, 20, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duffin, in view of Brown and Snell, as applied to claims 3-6, 8-10, 13-15, 19, 22-27, and 30-32 above, and further in view of US Patent No. 6,047,325 to Jain et al. Duffin, as modified discloses encrypting communication to provide a secure connection, but is silent as to a particular means of doing so. However, Jain teaches that a virtual private network (VPN), created by encryption and authentication, provides

a secure network, (Col. 2, lines 1-6 of Jain). Therefore, it would have been obvious to one of ordinary skill at the time of invention to use the VPN of Jain as the secure connection of Duffin, as modified by Brown and Snell, since Duffin, as modified, teaches using a secure connection, and Jain discloses a VPN as an appropriate means of doing so.

Claims 12, 21 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duffin, in view of Brown and Snell, as applied to claims 3-6, 8-10, 13-15, 19, 22-27, and 30-32 above, and further in view of US Patent No. 6,602,469 to Maus et al. Duffin, as modified discloses encrypting communication to provide a secure connection, but is silent as to a particular means of doing so. However, Maus teaches that an Internet secure socket layer connection is well known in the art as a means of encryption/decryption (col. 25, lines 20-25 of Maus). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use a secure socket layer connection of Maus as the secure connection of Duffin, as modified by Brown and Snell, since Duffin discloses using a secure connection, and Maus describes a secure socket layer connection as such a secure connection.

Response to Arguments

Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 6,804,558 to Haller et al.

US Patent NO. 6,059,692 to Hickman

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia C. Mallari whose telephone number is (571) 272-4729. The examiner can normally be reached on Monday-Friday 10:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patricia Mallari
Patent Examiner
Art Unit 3736

ROBERT L. NASSER
PRIMARY EXAMINER